

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2002-091664

03/04/2004

HONORABLE MARK R. SANTANA
FOR HONORABLE BETHANY G. HICKS

CLERK OF THE COURT
C. Kelly
Deputy

FILED: 03/08/2004

PARADISE MOUNTAIN SHADOWS
HOMEOWNERS AS

CHARLES E MAXWELL

v.

GALLERIA HOMES LLC, et al.

JAMES L TANNER

BRADLEY D WEECH

MINUTE ENTRY

The court has reviewed plaintiff's request for ruling on motion to enforce October 8, 2003 settlement agreement or in the alternative motion to continue March 12, 2004 hearing date.

As indicated in its March 2, 2004 minute entry, the court will treat this motion as a motion for reconsideration.

The court has also reviewed defendant Galleria's response to plaintiff's request for ruling on motion to enforce October 8, 2003 settlement agreement or in the alternative motion to continue March 12, 2004 hearing date, motion to compel discovery and disclosure and motion for expedited ruling on motion to compel discovery and disclosure.

The court notes that a request for oral argument is made with the motion to compel discovery and disclosure and motion for expedited ruling on motion to compel discovery and disclosure... Pursuant to Rule 7.1(c), Arizona Rules of Civil Procedure, in order to expedite the business of the court, the motion for expedited ruling is decided without oral argument.

The court determines that it erred in its February 24, 2004 minute entry when mistakenly referenced Jim Bahl as the signatory to the settlement agreement rather than Mark Haverland. But the court still finds that an evidentiary hearing is necessary in this matter. The court's misidentification of one of the signatories does not change the question of whether or not the signatories had authority to sign the settlement agreement.

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Because the date and time of the March 12, 2004 hearing was set at the end of the omnibus hearing, without counsel having the opportunity to consult their personal calendars, the court finds that a short continuance to accommodate plaintiff's counsel is appropriate. Had plaintiff's counsel requested a different date when the court set the hearing time, the court would have granted that request.

IT IS ORDERED:

- (1) Plaintiff's request for ruling on motion to enforce October 8, 2003 settlement agreement is denied;
- (2) Plaintiff's motion continue March 12, 2004 hearing date is granted;
- (3) Resetting the evidentiary hearing for APRIL 6, 2004 at 1:30 p.m. (3 hours).

IT IS FURTHER ORDERED:

- (1) Defendant Galleria's motion for expedited ruling on motion to compel discovery and disclosure is granted;
- (2) Plaintiff shall file a response to Galleria's motion to compel discovery and disclosure by 5:00 p.m., Tuesday, March 9, 2004;
- (3) Any reply shall be filed by 3:00 p.m., Wednesday, March 10, 2004;
- (4) All pleadings shall be faxed or hand delivered to opposing counsel and the court;
- (5) Setting oral argument (telephonic) for fifteen minutes on Thursday, March 11, 2004 at 1:15 p.m.